

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2-E

SPONSOR: Senator Saunders

SUBJECT: Engineering

DATE: October 17, 2003 REVISED: 10/22/03 _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|-----------|------------------|
| 1. | <u>Sumner</u> | <u>Imhof</u> | <u>RI</u> | <u>Favorable</u> |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill amends provisions of ch. 471, F.S., exempting any defense, space or aerospace company or employees from licensure as an engineer under ch. 471, F.S. The bill also adds definitions of the terms “space or aerospace company” and “defense company,” clarifies that certain persons who are exempt from licensure may practice engineering, and clarifies the professional titles such exempt persons may use.

This bill substantially amends the following sections of the Florida Statutes: 471.003, 471.005, and 471.031.

II. Present Situation:

Chapter 471, F. S., provides for the regulation of the engineering profession. Section 471.003, F.S., provides the qualifications for practice and exemptions from licensure under the chapter. This subsection (2) of this section provides for 10 exemptions from licensure. Subsection (2)(c) of s. 471.003, F.S., provides an exemption for regular full-time employees of a corporation not engaged in the practice of engineering, “whose practice of engineering for such corporation is limited to the design or fabrication of manufactured products and servicing of such products.”

“Engineer,” as defined in s. 471.005(5), F.S., includes the terms “professional engineer” and “licensed engineer” and refers to a person who is licensed “to engage in the practice of engineering under this chapter.” Subsection (7) defines the term “engineering.” License under this chapter means the licensing of engineers or certification of businesses to practice engineering in this state.

A person is prohibited from practicing engineering unless the person is licensed under ch. 471, F.S. Section 471.031(1)(b), F.S, also prohibits the use of the name or title “professional engineer or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed” pursuant to ch. 471, F.S.

The Board of Professional Engineers is created in the Department of Business and Professional Regulation by s. 471.007, F.S. The board is comprised of nine members, seven must be licensed engineers and two are laypersons unconnected with the practice of engineering.

The board has the power to discipline persons who violate the provisions of ch. 471, F.S., and board or department rules. When the board finds any person guilty of violating these provisions, it may impose various penalties. Among other penalties, it is authorized by this section to impose an “administrative fine not to exceed \$5,000 for each count or offense.” The \$5,000 fine was increased from \$1,000 during the 2003 Regular Session by ch. 2003-293, L.O.F.

Section 471.031,(1)(b), F.S., was amended in the 2002 Regular Legislative Session by ch. 2002-299, L.O.F., to prohibit the use of numerous titles relating to engineering, including such titles as “agricultural engineer,” “civil engineer” “control systems engineer,” “mechanical engineer,” “software engineer,” and “systems engineer.”

Also in 2002, the United States Congress enacted the Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002). The act was passed in the aftermath of the financial collapses of many corporations, including Enron Corporation. The law establishes a framework for accountability by public companies, including new responsibilities for reporting potential liabilities.

According to information supplied by the Florida Aviation Aerospace Alliance and the Office of Tourism, Trade and Economic Development there are between 15,000 and 20,000 engineers working in the defense and aerospace industry. Many of these engineers are not licensed in Florida and their practice of engineering is limited to work for these corporations as employees. Many federal contracts require these corporations to utilize persons with engineering titles, but do not require the persons to be licensed.

According to representatives from the Office of the Governor and the defense and aerospace industry, the engineering title restrictions, the passage of the Sarbanes-Oxley Act of 2003 and the increased disciplinary penalties require that these companies list as a liability \$5,000 for every engineer in their employ in Florida who uses the restricted titles under s. 471.031, F.S. The industry maintains that the fines could amount to \$100 million.

During the 2003 Regular Session, s. 69 of SB 4-A, the Appropriation Implementing Bill, included language that prohibited the Department of Business and Professional Regulation or the Florida Engineers Management Corporation from utilizing funds to prosecute persons employed by defense and aerospace industry not offering engineering services to the public and using the title “engineer” or any title listed in s. 471.031(1)(b), F.S.

III. Effect of Proposed Changes:

Section 471.003(2), F.S., is amended to include any defense, space, or aerospace company or any employee, contract worker, subcontractor, or independent contractor of the company to the list of persons not required to be licensed under the provisions of ch. 471, F.S.

Section 471.005(12), F.S., is created to define “space or aerospace company” to mean:

[A]ny business entity concerned with the design, manufacture, or support of aircraft, rockets, missiles, spacecraft, satellites, space vehicles, space stations, space facilities, or components thereof, and equipment, systems, facilities, simulators, programs, products, services, and activities related thereto.

Section 471.005(13), F.S., is created to define “defense company” to mean:

[A]ny business entity that holds a valid Department of Defense contract or any business entity that is a subcontractor under a valid Department of Defense contract. The term includes any business entity that holds valid contracts or subcontracts for products or services for military use under prime contracts with the United States Department of Defense, the United States Department of State, or the United States Coast Guard.

Section 471.031, F.S., is amended to clarify that any defense, space, or aerospace company that is exempt under s. 471.003, F.S., may use the title or personnel classification of “engineer” in the scope of his or her work under that exemption if the title does not include or connote the term “professional engineer,” “registered engineer,” “licensed engineer,” “registered professional engineer,” or “licensed professional engineer.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

According to the Florida Aviation Aerospace Alliance, this bill will prevent a loss of 6,500 to 10,750 engineering jobs from leaving the state as a result of the liability exposure by the use of engineering titles by non-licensed engineers. The industry estimates that the impact in lost wages would be between \$300-\$500 million annually.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
